

ORDINANCE O-2-11
Code of the Town of Cheverly

An Ordinance whereby the Mayor and Council make absentee voting available to all qualified voters.

WHEREAS, Section C-17 of the Charter of the Town of Cheverly grants to the Mayor and Town Council the power to provide for municipal elections; and

WHEREAS, the Mayor and Town Council deem it appropriate to amend the Town Code regarding absentee ballots to allow all qualified voters to vote with an absentee ballot upon request, provided the ballot is received before the polls are closed; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council, in regular session assembled, that Sections 2-1, 2-2 and 2-3 of the Cheverly Code be repealed and reenacted with amendments as follows:

Chapter 2

ELECTIONS

Sec. 2-1.~ [Qualifications.

The following persons may vote in Town of Cheverly elections by absentee ballot:

(a)~~~Provided an application for an absentee ballot is filed with the board of election supervisors not later than seven (7) days before election:

(1)~~~Any qualified voter who will be absent from the Town of Cheverly during the entire period the polls are open on election day;

(2)~~~Any qualified voter whose physical disability prevents or will prevent such voter from being present and personally voting at the polls on election day.

(b)~~~Within seven (7) days of an election and on the day of the election prior to the time the polls close, under the following emergency circumstances:

(1)~~~Any qualified voter who is informed within such seven (7) day period that, as a condition of such voter's employment, such voter is required to be absent from the Town of Cheverly;

(2)~~~Any qualified voter who is unable to be physically present at the polls as a result of illness or accident occurring within such seven (7) day period;

(3)~~~Any qualified voter who is unable to be present because of a death or serious illness in such voter's immediate family occurring after the beginning of such period.]

POLICY. IT IS THE POLICY OF THE TOWN TO ALLOW ABSENTEE VOTING IN ORDER TO MAKE PARTICIPATION IN TOWN ELECTIONS AVAILABLE TO AS MANY VOTERS AS POSSIBLE WHO HAVE QUALIFIED TO VOTE IN TOWN ELECTIONS, PROVIDED THE ABSENTEE BALLOT IS RECEIVED PRIOR TO THE CLOSE OF THE POLLS ON ELECTION DAY.

(Ord. No. 6-77, 6-9-77)

Sec. 2-2.~ Application for ballots.

(a)~~~Any qualified voter desiring to vote at any election as an absentee voter [under one or more of the conditions described in section 2-1] shall make application in writing to the Board of election supervisors for an absentee ballot, as hereinafter provided. **THE APPLICATION MUST BE RECEIVED BY THE TOWN IN SUFFICIENT TIME FOR THE BOARD TO APPROVE THE APPLICATION AND TO DELIVER THE ABSENTEE BALLOT AS HEREIN PROVIDED.** The application shall be on a form containing an affidavit, which need not be under oath but which shall set forth **UNDER PENALTY OF PERJURY**the [following information under penalty of perjury:

(1)~~~The] voter's name and residence address, including the street and number and apartment (if any); **AND**

[(2)~~~The reason or reasons, authorized in section 2-1, why the voter will not be able to vote in person on election day; and]

[(3)~~~Instructions for delivery of the **ABSENTEE** ballot **TO THE PERSON REQUESTING IT.**

(b)~~~Printed forms of applications for absentee ballots shall be provided by the Board **ON THE TOWN WEBSITE** and shall be available to any qualified voter upon request **AT THE TOWN OFFICE..**

(c)~~~Upon receipt of a completed application, the Board shall reject the application only if it determines that the applicant is not legally qualified under the laws of Cheverly to vote at the election as an absentee voter. When rejected, the Board shall notify the applicant of the reason therefor. All investigations shall be concluded and all determinations made as to absentee ballot applications as soon as practicable after they are received[, and in the case of applications under section 2-1(a) not later than five (5) days before election day].

(d)~~~When an application is approved, the Board shall, as soon as practicable, deliver to the applicant an absentee voter's ballot, instructions for absentee voters, and the envelopes relating thereto. Such delivery shall be by mail to the address designated in the application, **UNLESS THE PERSON REQUESTING THE ABSENTEE BALLOT INSTRUCTS THAT THE ABSENTEE BALLOT SHALL BE LEFT AT THE TOWN OFFICE TO BE PICKED UP BY THE REQUESTOR OR HIS/HER AGENT** [except that

applicants under the emergency circumstances described in section 2-1(b), or who cannot be reached by mail during their absence, may request permission to pick up the ballot and related material in person, or may designate an agent for such purpose]. Neither the mayor, a member of the council, a candidate for any such office, nor a member of their immediate families may serve as such agent. **ABSENTEE BALLOTS THAT ARE TO BE PICKED UP AT THE TOWN OFFICE MUST BE PICKED UP BEFORE THE CLOSE OF BUSINESS ON THE FRIDAY BEFORE AN ELECTION AND SHALL ONLY BE PICKED UP DURING REGULAR BUSINESS HOURS AND ONLY BY THE REQUESTOR OR HIS/HER DESIGNATED AGENT.**

(e)~~~**THE BOARD SHALL PROCESS ALL APPLICATIONS FOR ABSENTEE BALLOTS RECEIVED BY THE TOWN WITHIN FOUR (4) BUSINESS DAYS OF THE TOWN'S RECEIPT OF SUCH APPLICATIONS.** The Board shall keep a record of applications for absentee voters' ballots as they are received, showing the date and time received, the names and residences of the applicants, whether such applications were approved, and the date and mode of delivery. Such record shall be available for examination by any registered voter.

(f)~~~After approval of an application for an absentee ballot and the delivery to the applicant of an absentee ballot, a marker shall be placed by the voter's name on the registration books recording the fact that an absentee ballot has been delivered. No such voter shall vote or be allowed to vote in person on Election Day.

(Ord. No. 6-77, 6-9-77)

Sec. 2-3.~ Printing and delivery of ballots, instructions and envelopes.

(a)~~~In sufficient time prior to any election, the Board of Election Supervisors shall have printed an adequate number of ballots which shall have imprinted the words "Absentee Ballot" in large letters in a clear space at the top of each ballot. There shall also be imprinted on the ballot instructions for marking the ballot and a warning that any erasures, alterations or identifying marks will invalidate the ballot.

(b)~~~The Board shall also have printed an adequate supply of instructions for absentee voters. Such instructions shall contain a warning of the legal penalties applicable for making any false application or affidavit, or for willfully doing any act contrary to the terms of the absentee voting law with the intent of casting an illegal vote or aiding another in doing so, and shall provide that:

(1)~~~The instructions and the ballot are to be examined carefully before the ballot is marked and other required actions taken because failure to mark the ballot properly or to follow other instructions exactly will invalidate the ballot;

(2)~~~The ballot may be marked only in accordance with instructions printed on the ballot and may not contain erasures or alterations;

(3)~~~The marked ballot and nothing else shall be enclosed and sealed in a "ballot envelope";

(4)~~~The affidavit printed on such ballot envelope shall be completed and signed; and

(5)~~~The completed ballot envelope shall be enclosed and sealed in a "return envelope", and returned by mail or by hand to the Board at the address preprinted on the return envelope.

(c)~~~The Board shall also have printed an adequate supply of "ballot envelopes" which shall be of sufficient size to contain an absentee ballot, and which shall have imprinted on its face the words "Ballot Envelope for the election of _____" in bold type, and the following affidavit:

"Oath of Absentee Voter

I, _____, do hereby affirm that I am a voter legally qualified to vote in the Town of Cheverly election to be held on _____, 201__; that I am legally registered in Ward _____ of the Town of Cheverly; that I have not qualified nor do I intend to vote elsewhere than as set forth herein; that the within ballot was by me marked secretly, folded and enclosed and sealed in this ballot envelope; and that I am not now disqualified from voting under the laws of Cheverly."

(d)~~~The Board shall also have printed an adequate supply of "return envelopes", which shall be large enough to contain the ballot envelope, and on which shall be imprinted the name and address of the Board of Election Supervisors and in bold type the words: "Official Absentee Ballot, To Be Opened Only by Election Board".

(e)~~~The Board shall also have printed an adequate supply of "cover envelopes" which shall be large enough to contain the other hereinafter described envelopes, and which shall be imprinted with the return address of the Board of Election Supervisors and in **bold** face type the words "Official Absentee Ballot, Do Not Forward". The Board shall prepare a cover envelope for each approved application addressed to the absentee voter at the address listed in his application, and in such envelope shall enclose:

(1)~~~A copy of the approved application;

(2)~~~Instructions for absentee voters;

(3)~~~An absentee ballot;

(4)~~~A ballot envelope; and

(5)~~~A return envelope.

The cover envelope shall be mailed to the applicant as soon as practicable after the application is approved, except [that absentee voters qualifying under the

emergency circumstances described in section 2-1(b) may request that the cover envelope and contents be handed to such applicant, or to the agent designated in the application, at the board office] **THAT THOSE REQUESTING THE BALLOT TO BE PICKED UP AT THE TOWN OFFICE SHALL PICK UP THE COVER ENVELOPE AND CONTENTS AT THE TOWN OFFICE DURING REGULAR BUSINESS HOURS BUT ONLY UNTIL THE CLOSE OF BUSINESS ON THE FRIDAY PRIOR TO THE TOWN ELECTION.**

(f)~~~Not more than one absentee ballot shall be mailed to any one applicant unless the Board has reasonable grounds to believe that the absentee ballot previously mailed has been lost, destroyed or spoiled.

(Ord. No. 6-77, 6-9-77)

AND BE IT FURTHER ORDAINED that if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other applications of the Ordinance which can be given effect without the invalid provision or applications, and to this end, all the provisions of this Ordinance are hereby declared to be severable.

AND BE IT FURTHER ORDAINED that this Ordinance shall take effect thirty (30) days from the date of its adoption; provided, however that a fair summary of the Ordinance is published at least once in a newspaper of general circulation in the Town of Cheverly.

INTRODUCED by the Mayor and Town Council of the Town of Cheverly, Maryland, at a regular meeting on January 14, 2011, at which meeting copies were available to the public for inspection.

ADOPTED by the Mayor and Town Council of the Town of Cheverly, Maryland, at a regular meeting on February 10, 2011, at which meeting copies were available to the public for inspection.